

## **Political Party Communications Identifying State Candidates – Application of Contribution Limits**

### **Bill Proposal:**

Amend Government Code section 85310(c) so that Proposition 34 contribution limits apply equally to all payments for issue advocacy communications that are made within 45 days of an election at the behest of a candidate for state elective office, regardless of whether that particular candidate is identified in the communication.

### **Problem:**

Under Government Code section 85303, political parties may not accept any individual contribution of more than \$27,900<sup>1</sup> per year for the purpose of making contributions to support or defeat candidates for elective state office. Political parties may accept unlimited contributions beyond that amount, but that money may only be used for purposes other than supporting or opposing candidates for elective state office (such as get-out-the-vote campaigns and local candidate support).

Government Code section 85310(a) requires 48-hour reporting of payments of \$50,000 or more for communications that are made within 45 days of an election and that identify state candidates but do not expressly advocate for election or defeat of that candidate. Section 85310(c) explains that payments for these communications are also subject to the \$27,900 political party/state candidate contribution limit if the communication is made at the behest of the candidate who is “clearly identified” in the communication. As a result, the \$27,900 limit applies to issue advocacy within 45 days of an election when the state candidate with whom the party is coordinating is also identified in the ad; therefore, the party can only use the contribution limited funds to pay for these communications.

But, what about communications that do not identify the candidate but instead identify that candidate’s opponent? Currently, political parties could run negative advertisements about a state candidate’s opponent without being required to use only the contribution limited funds. In other words, because only communications in which the party coordinated with “the clearly identified candidate” is expressly subject to the political party/state candidate contribution limits, negative ads against that candidate’s opponent are not subject to the same limits and can therefore be funded by unlimited funds. This results in a loophole that allows a state candidate to coordinate with a political party to use unlimited political party funds to run negative issue ads that identify another candidate, thereby evading Proposition 34 contribution limits.

### **Proposed Solution:**

By amending the language to cover any candidate for elective state office, 85310(c) would cover not only communications where the candidate who is coordinating with the political party is expressly identified in the communication, but also communications where the candidate is coordinating with the party on a communication about another candidate.

### **Bill Language:**

#### **85310. Communications Identifying State Candidates**

(a) Any person who makes a payment or a promise of payment totaling fifty thousand dollars (\$50,000) or more for a communication that clearly identifies a candidate for elective state office,

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<sup>1</sup> This limit of \$27,900 will rise to \$30,200 beginning on January 1, 2007, per regulation 18545, as amended by the Commission on November 14, 2006.

but does not expressly advocate the election or defeat of the candidate, and that is disseminated, broadcast, or otherwise published within 45 days of an election, shall file online or electronically with the Secretary of State a report disclosing the name of the person, address, occupation, and employer, and amount of the payment. The report shall be filed within 48 hours of making the payment or the promise to make the payment.

(b) (1) Except as provided in paragraph (2), if any person has received a payment or a promise of a payment from other persons totaling five thousand dollars (\$5,000) or more for the purpose of making a communication described in subdivision (a), the person receiving the payments shall disclose on the report the name, address, occupation and employer, and date and amount received from the person.

(2) A person who receives or is promised a payment that is otherwise reportable under paragraph (1) is not required to report the payment if the person is in the business of providing goods or services and receives or is promised the payment for the purpose of providing those goods or services.

(c) Any payment received by a person who makes a communication described in subdivision (a) is subject to the limits specified in subdivision (b) of Section 85303 if the communication is made at the behest of ~~the clearly identified~~ a candidate for elective state office.